

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

United States Patent Application
COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **COMPOSITE SOFTBALL BAT**.

The specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. §1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

<u>Application Number</u>	<u>Filing Date</u>
60/263,020	January 19, 2001

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

No such claim for priority is being made at this time.

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Gortych, Joseph E.	Reg. No. 41,791	Nelson, Albin J.	Reg. No. 28,650
Arora, Suneel	Reg. No. 42,267	Haack, John L.	Reg. No. 36,154	Nielsen, Walter W.	Reg. No. 25,539
Beekman, Marvin L.	Reg. No. 38,377	Harris, Robert J.	Reg. No. 37,346	Padys, Danny J.	Reg. No. 35,635
Bianchi, Timothy E.	Reg. No. 39,610	Hill, Stanley K.	Reg. No. 37,548	Parker, J. Kevin	Reg. No. 33,024
Billion, Richard E.	Reg. No. 32,836	Jackson Huebsch, Katharine A.	Reg. No. 47,670	Perdok, Monique M.	Reg. No. 42,989
Black, David W.	Reg. No. 42,331	Jurkovich, Patti J.	Reg. No. 44,813	Peret, Andrew R.	Reg. No. 41,246
Brennan, Leoniede M.	Reg. No. 35,832	Kalis, Janal M.	Reg. No. 37,650	Peterson, David C.	Reg. No. 47,857
Brennan, Thomas F.	Reg. No. 35,075	Klima-Silberg, Catherine I.	Reg. No. 40,052	Prout, William F.	Reg. No. 33,995
Brooks, Edward J., III	Reg. No. 40,925	Kluth, Daniel J.	Reg. No. 32,146	Schumm, Sherry W.	Reg. No. 39,422
Chadwick, Robin A.	Reg. No. 36,477	Lacy, Rodney L.	Reg. No. 41,136	Schwegman, Micheal L.	Reg. No. 25,816
Clark, Barbara J.	Reg. No. 38,107	Lemaire, Charles A.	Reg. No. 36,198	Scott, John C.	Reg. No. 38,613
Clise, Timothy B.	Reg. No. 40,957	LeMoine, Dana B.	Reg. No. 40,062	Smith, Michael G.	Reg. No. 45,368
Dahl, John M.	Reg. No. 44,639	Lundberg, Steven W.	Reg. No. 30,568	Speier, Gary J.	Reg. No. 45,458
Drake, Eduardo E.	Reg. No. 40,594	Maki, Peter C.	Reg. No. 42,832	Steffey, Charles E.	Reg. No. 25,179
Embreton, Janet E.	Reg. No. 39,665	Malen, Peter L.	Reg. No. 44,894	Stordal, Leif T.	Reg. No. 46,251
Fordenbacher, Paul J.	Reg. No. 42,546	Mates, Robert E.	Reg. No. 35,271	Terry, Kathleen R.	Reg. No. 31,884
Forrest, Bradley A.	Reg. No. 30,837	McCrackin, Ann M.	Reg. No. 42,858	Tong, Viet V.	Reg. No. 45,416
Gamon, Owen J.	Reg. No. 36,143	Moore, Charles L., Jr.	Reg. No. 33,742	Viksnins, Ann S.	Reg. No. 37,748
Gorrie, Gregory J.	Reg. No. 36,530	Nama, Kash	Reg. No. 44,255	Woessner, Warren D.	Reg. No. 30,440

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to **Schwegman, Lundberg, Woessner & Kluth, P.A.** at the address indicated below:

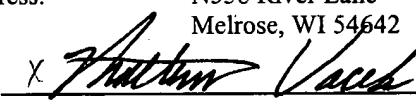
**P.O. Box 2938, Minneapolis, MN 55402
Telephone No. (612)373-6900**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 1 : Matthew Vacek

Citizenship: United States of America
Post Office Address: N538 River Lane
Melrose, WI 54642

Residence: Melrose, WI

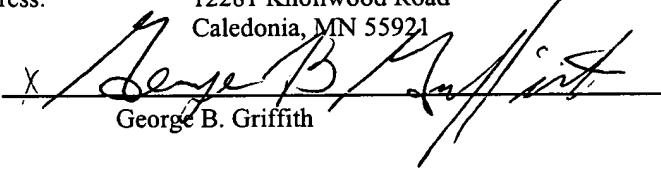
Signature: X 
Matthew Vacek

Date: X 6/14/01

Full Name of joint inventor number 2 : George B. Griffith

Citizenship: United States of America
Post Office Address: 12281 Knollwood Road
Caledonia, MN 55921

Residence: Caledonia, MN

Signature: X 
George B. Griffith

Date: X 6/14/01

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

SMALL BUSINESS

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 C.F.R. 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

- a) the owner of the small business concern identified below:
b) an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: Miken Composites, LLC
ADDRESS OF CONCERN: 139 Bissen St
Caledonia, MN 55921

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. 121.3-18, and reproduced in 37 C.F.R. 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled COMPOSITE SOFTBALL BAT by inventors Matthew Vacek and George B. Griffith described in the specification filed herewith.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. 1.9(c) or by any concern which would not qualify as a small business concern under 37 C.F.R. 1.9(d) or a nonprofit organization under 37 C.F.R. 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. 1.27)

NAME _____

ADDRESS _____

a) INDIVIDUAL b) SMALL BUSINESS CONCERN c) NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereof, or any patent to which this verified statement is directed.

NAME X Steven H. Oltre Steven H. Christiansen

TITLE X PRESIDENT

ADDRESS X 139 Bissen Street Caledonia, MN. 55921

SIGNATURE X Steven H. Oltre DATE X 6-14-01